



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

DEC 05 2016

Mallory Beck  
Jackson Walker L.L.P.  
100 Congress Ave., Suite 1100  
Austin, TX 78701

RE: MUR 7012

Dear Ms. Beck:

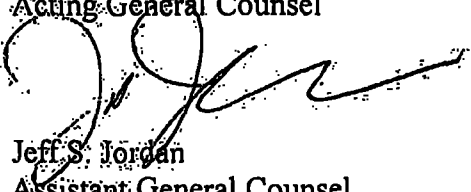
On February 25, 2016, the Federal Election Commission ("Commission") notified your clients, Mike Sweeney 4 Congress and Kathy Sweeney as treasurer, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On November 29, 2016, based upon the information contained in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on November 29, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the dispositive General Counsel's report is enclosed for your information.

If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT

2016 NOV 14 AM 11: 54  
**SENSITIVE**

MUR: 7012

Complaint Receipt Date: February 19, 2016

Response Date(s): March 14, 2016

Respondents: Mike Sweeney 4 Congress, **CELA**  
and Kathy Sweeney, as treasurer  
(collectively the "Committee")<sup>1</sup>

EPS Rating: [REDACTED]

Alleged Statutory  
Regulatory Violations:

52 U.S.C. § 30120(a)(1), (c)(2)  
11 C.F.R. § 110.11(a)(1) and (c)(2)(ii)

The Complaint alleges that yard signs and brochures produced and distributed by the Mike Sweeney 4 Congress Committee ("Committee") failed to include the proper disclaimers in violation of 52 U.S.C. § 30120 and 11 C.F.R. § 110.11. According to the Complaint, the disclaimers on the Committee's yard signs, and at least one brochure, were not placed inside a printed box. The Committee responded by stating that it believed that the disclaimers were, in fact, placed in boxes, and were clearly visible. They add that Sweeney was a first-time, low-budget candidate, and that any potential violations of the Act or Commission regulations were unintentional mistakes.<sup>2</sup> Furthermore, the Committee stated that all campaign signs had been removed after Sweeney's loss in the primary.

Whenever a political committee makes a disbursement for a communication through an outdoor advertising facility or mailing, the Act and Commission regulations require that the communication shall clearly state that it has been paid for by the committee. 52 U.S.C. § 30120(a)(1). *See also* 11 C.F.R. § 110.11(a)(1). Additionally, the disclaimer on any printed communication is required to be contained in a printed box set apart from the other contents of the

<sup>1</sup> Mike Sweeney was a candidate for the U.S. House of Representatives in the 31st Congressional District of Texas. Sweeney lost in the Republican primary on March 1, 2016.

<sup>2</sup> Respondent also says that the complaint was politically motivated.

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communication. 52 U.S.C. § 30120(c)(2). *See also* 11 C.F.R. § 110.11(c)(2)(ii). Photos of the brochure and yard signs attached to the Complaint indicate that the published materials contained the full text of a disclaimer, but that they may not have been contained in a printed box set apart from the other contents of the communication.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, and the fact that it is unlikely the general public would have been misled as to who was responsible for the communication, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

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Lisa J. Stevenson  
Acting General Counsel

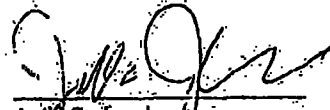
Kathleen M. Guith  
Acting Associate General Counsel  
for Enforcement

11/14/16  
Date

BY:



Peter Blumberg  
Acting Deputy Associate General Counsel  
for Enforcement



Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination  
& Legal Administration



Donald E. Campbell  
Attorney  
Complaints Examination  
& Legal Administration

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